

## REMARKS

Applicants respectfully request reconsideration of this application as amended. Claims 1-11, 16 and 21-23 have been amended. Claims 12-13, 17-20 and 24-26 have been previously cancelled. No new claims have been added. Therefore, claims 1-11, 14-16 and 21-23 are presented for examination.

### Claim Objections

Claims 1, 10 and 21 are objected because of informalities. Claims 1, 10 and 21 have been amended thus obviated this objection. Accordingly, Applicants respectfully request that the object be withdrawn.

### 35 U.S.C. § 102 Rejection

Claims 1, 3-4, 6, 9-11, 14-16, 21 and 23 stand rejected under 35 U.S.C. §102(b) as being anticipated by Fee, et al., U.S. Patent No. 5,522,042 (“Fee”).

Applicants submit that Fee discloses “allocating *the performance of applications in a networking chassis* among one or more modules in the chassis. In particular, the system acts as a chassis agent for *performing network management functions*. The agent performs a discovery function whereby each module discovers the location and current utilization of resources and applications for itself and transmits that information to other modules, and wherein each module maintains a slot table of such information for all modules. Based on the information in the slot table, each module performs *an election function for allocating applications among the various modules in the chassis*.”

(Abstract, lines 1-12; emphasis provided). Fee further discloses that the slot table includes “*basis information about module 50*, such as: Slot ID, LLAP address, MAC

address, IP address, Module Type.” (col. 6, lines 58-67).

In contrast, claim 1, in pertinent part, recites “continuously storing replicated health metrics and performance metrics from each server in the chassis to avoid reconfiguring the active manager server when replacing a failed server with a new server.” (emphasis provided). Even though Fee discloses storing basic information about each module, Fee fails to teach or reasonably suggest using the information to replace failed servers without requiring reconfiguration. Fee further fails to teach or reasonably suggest replacing failed servers, but instead discloses making a determination of which of the servers still running is best suited to run the failed server’s applications. (see Fee at col. 7, ll. 48-55). Therefore, Applicants submit that Fee fails to teach or reasonably suggest each and every limitation of claim 1. Accordingly, Applicants respectfully request the withdrawal of the rejection of claim 1 and its dependent claims.

Claims 10 and 24 contain limitations similar to those of claims 1. Accordingly, Applicants respectfully request the withdrawal of the rejection of claims 10 and 24 their dependent claims.

### **35 U.S.C. § 103 Rejection**

Claims 2 and 22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fee.

With regard to claims 2 and 22, they depend from independent claims 1 and 24 and thus, include the limitations of the independent claim from which they depend. Accordingly, Applicants respectfully request the withdrawal of the rejection of claims 2 and 22.

Claims 5, 7 and 8 are rejected under 35 U.S.C. §103(a) as being unpatentable over Fee in view of Fung, et al., U.S. Patent Publication No. 2002/0062454(“Fung”).

With regard to claims 5 and 7-8, they depend from independent claim 1 and thus, include the limitations of claim 1. Accordingly, Applicants respectfully request the withdrawal of the rejection of claims 5 and 7-8.

### **Conclusion**

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

### **Invitation for a Telephone Interview**

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

### **Request for an Extension of Time**

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

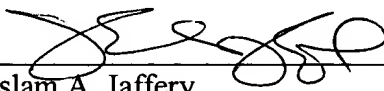
### **Charge our Deposit Account**

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

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